

REMARKS

This is a response to the Office Action dated February 14, 2008, (hereinafter the “Office Action”). Claims 1-2 have been amended to delete references to metabolites of vitamin D compounds. New claims 42-46 have been added. Claims 1-5, 7, 9-20 and 38-46 are currently pending in the present application.

The Examiner’s indication that the outstanding rejection under 35 U.S.C. § 103(a) has been withdrawn is acknowledged with appreciation.

Basis for new claims 42 and 44-46 is found, for example, at page 3, lines 1-5 of the application as originally filed. Basis for new claim 43 is found at page 1, line 13 of the application as originally filed. In addition, in the Office Action, the Examiner confirmed that treatment of these injuries is enabled by the present specification. No new matter has been added.

I. Claim Rejections Under 35 U.S.C. §112

Claims 1-5, 9-20 and 38-41 have been rejected under 35 U.S.C. §112, first paragraph, on the basis that the application does not reasonably provide enablement for metabolites of vitamin D compounds. Although the applicant does not concede the correctness of this rejection, claims 1-2 have been amended to delete the references to metabolites of vitamin D compounds in order to obviate this rejection and advance prosecution of the present application. Favorable consideration and withdrawal of the rejection in view of the amendment is requested.

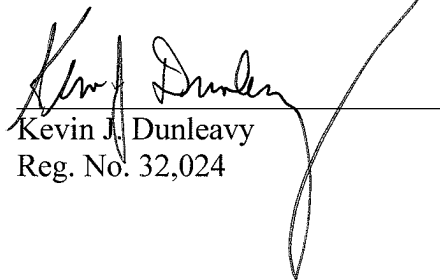
Claims 1-5, 7, 9-20 and 38-41 have been rejected under 35 U.S.C. §112, first paragraph, on the basis that the specification is not enabling for treatment of “instant incineration.” The applicant has reviewed the specification and determined that the reference to “instant incineration” as a type of radiation injury is an error and thus the specification has been amended to delete the reference to “instant incineration.” Incineration is a process involving heat treatment and is not actually a radiation injury and thus should not have been mentioned as such in the present application. Although atomic bombs cause instant incineration, this is not due to the radiation emitted from the bomb, but rather is due to the extreme heat that is generated by the explosion. Accordingly, since instant incineration is not actually a type of radiation injury, instant incineration is not covered by the present claims. Therefore, withdrawal of this rejection is requested.

Claims 1-5, 7, 9-20 and 38-41 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite on the basis that the phrase “metabolites thereof” is indefinite. Although the applicant does not concede the correctness of this rejection, claims 1-2 have been amended to delete the references to metabolites in order to obviate this rejection and advance prosecution of the present application. Favorable consideration and withdrawal of the rejection in view of the amendment is requested.

II. Conclusion

The applicant has made an earnest effort to place the present application in condition for allowance. Favorable consideration and issuance of a Notice of Allowance is requested.

Respectfully submitted,


Kevin J. Dunleavy
Reg. No. 32,024

Dated: March 5, 2008

KNOBLE YOSHIDA & DUNLEAVY, LLC
Customer No. 21,302
Eight Penn Center, Suite 1350
1628 John F. Kennedy, Jr. Blvd.
Philadelphia, PA 19103
Phone: (215) 599-0600
Fax: (215) 599-0601